

JOE KARREN, SR., ET AL.

IBLA 81-722

Decided July 23, 1982

Appeal from decision of the Idaho State Office, Bureau of Land Management, declaring mining claim abandoned and void. I MC 52367.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Mining Claims: Determination of Validity -- Mining Claims: Lands Subject to -- Mining Claims: Withdrawn Land -- Withdrawals and Reservations: Effect of

A mining claim located on land previously withdrawn from appropriation under the mining laws is null and void ab initio.

3. Notice: Generally -- Regulations: Generally -- Statutes

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Joe Karren, Sr., and Esther Karren, pro sese.

OPINION BY ADMINISTRATIVE JUDGE FRAZIER

Joe Karren, Sr., and Esther Karren appeal from the May 4, 1981, decision of the Idaho State Office, Bureau of Land Management (BLM), which declared the Rough Creek placer mining claim (a.k.a. Rough Creek Placer Claim #1) abandoned and void. The decision stated that the Rough Creek placer claim situated in secs. 22, 23, 26, and 27, T. 11 N., R. 14 E., Boise meridian, Idaho, within the Challis National Forest located in 1960 and transferred to appellant in 1969, was deemed abandoned and void because it was not recorded with BLM by October 22, 1979, as required by 43 CFR 3833.1-2.

The decision continues in part as follows:

On August 28, 1980, the above claim (Rough Creek Placer) was relocated by Joe and Esther Karren and renamed the Rough Creek Placer Claim #1, as recorded September 4, 1980, by instrument no. 155826, official records of Custer County, Idaho. Said claim remained situated within sections 22, 23, 26 and 27, T. 11 N., R. 14 E., B.M., Idaho.

The lands involved were withdrawn from mineral entry under Public Law 92-400 (86 Stat. 612), the Act of August 22, 1972, which established the Sawtooth National Recreation Area (SNRA).

The relocation of the Rough Creek Placer Claim (aka Rough Creek Placer Claim #1), being August 28, 1980, was made after the lands were closed to mining location. Therefore, the Rough Creek Placer Claim (aka Rough Creek Placer Claim #1) is invalid and declared null and void ab initio.

On appeal appellants claim that the Forest Service and BLM misled them by not providing complete information and also that BLM failed to notify them of any changes in the law and regulations which would affect their claim. Appellants state that they have consistently recorded their proof of labor with the county and that they have paid taxes on the claim.

[1] Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), was enacted by Congress to establish a Federal recording system for mining claims in order to facilitate Federal land use planning. That section provides in relevant part:

§ 1744. Recordation of mining claims

(a) Filing requirements

The owner of an unpatented lode or placer mining claim located prior to October 21, 1976, shall, within the three-year period following October 21, 1976, and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. * * *

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon * * *.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

(b) Additional filing requirements

The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to October 21, 1976, shall, within the three-year period following October 21, 1976, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. * * *

(c) Failure to file as constituting abandonment; defective or untimely filing

The failure to file such instruments as required by subsections (a) and (b) of this section shall be deemed conclusively to constitute abandonment of the mining claim or mill or tunnel site by the owner * * *.

The implementing regulations are set forth in 43 CFR Subpart 3833. Because the Rough Creek placer claim was located prior to October 21, 1976, it was necessary for appellants to file those documents required by the statute with BLM on or before October 22, 1979. The statute and regulations mandate that certain documents be filed with BLM, and neither paying taxes nor filing proof of labor with the county will excuse lack of compliance.

Failure to comply with the statutory requirements governing the recordation of information relative to unpatented mining claims must result in a conclusive finding that the claim has been abandoned. Edward P. Murphy, 48 IBLA 211 (1980); G. H. Monk, 47 IBLA 213 (1980); 43 CFR 3833.4. The responsibility for complying with the recordation requirements rested with appellant. This Board has no authority to excuse lack of compliance. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981); A. J. Grady, 48 IBLA 218 (1980).

[2] When the claim was relocated on August 20, 1980, the land was unavailable in accordance with the Act of August 22, 1972, P.L. 92-400, 86 Stat. 612 (codified at 16 U.S.C. §§ 460aa-460aa-14 (1976)) (Act), which established the Sawtooth National Recreation Area. Section 10 of the Act 16 U.S.C. § 460aa-9 (1976), withdrew all Federal land in the recreation

area, subject to existing rights, from all forms of location, entry and patent under the mining laws of the United States. A mining claim may only be located on lands open to operation of the mining laws, 30 U.S.C. § 22 (1976). Because the mining claim was relocated on land previously withdrawn from mineral entry, it is null and void ab initio. George H. Fennimore, 63 IBLA 214 (1982); Clayton S. Hale, 62 IBLA 35 (1982).

[3] Those who deal with the Government are presumed to have knowledge of the law and the regulations duly adopted pursuant thereto. 44 U.S.C. §§ 1507, 1510 (1976); Schweiker v. Hansen, 450 U.S. 785 (1981); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Donald H. Little, 37 IBLA 1 (1978). Reliance on erroneous or incomplete information provided by BLM employees does not relieve the owner of a mining claim of an obligation imposed by statute, or create rights not authorized by law, or relieve the claimant of the consequences imposed by the statute for failure to comply with its requirements. Atlantic Richfield Co. v. Hickel, 432 F.2d 587 (10th Cir. 1970).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the Idaho State Office is affirmed.

Gail M. Frazier
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

James L. Burski
Administrative Judge

